

SYLLABUS

BUSINESS ASSOCIATIONS (Spring 2024)

PROFESSOR:	Robert J. Rhee
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CLASSROOM:	Holland 355C
CLASS TIME:	Tues., Wed., Thurs.: 3:30pm to 4:45pm (1 hour 15 minutes)
OFFICE HOURS:	Tues. & Wed.: 11am to 1pm ○ Office hours will always be consistent with the prevailing UF policy. ○ Office hours can be through Zoom, telephone, or in person (if UF policy permits), and there are no restrictions on any of these methods.
FINAL EXAM:	To be determined (4 hours)

TEXTBOOKS

Robert J. Rhee, LLCs, Partnerships, and Corporations (West 2021)

COURSE DESCRIPTION

This course provides comprehensive coverage of the major business organizations, including general partnerships, limited partnerships, limited liability companies, and corporations. It emphasizes the major differences among these entities and the role of contracting for the rules of internal affairs. Topics include rules dealing with formation, agency, management structures, admissions and dissociations, fiduciary duties, corporate governance, shareholder litigation, and fundamental transactions.

STUDENT LEARNING OUTCOMES

An understanding of business associations is required to practice business law. Modern business law practice broadly uses the corporate form and noncorporate entities, including the limited liability company. This course teaches the major business organizations, including general partnerships, limited partnerships, limited liability companies, and corporations.

After completing this course, students should be able to:

1. Know and analyze the legal rules of internal affairs, including the distinction between default and mandatory rules, for all major business organizations.

2. Consider issues related to advising business organizers and managers with respect to formation and maintenance of business organizations.
3. Know the rules and principles of fiduciary duties applicable in different settings and business organizations.
4. Know the differences between the corporate form and noncorporate business entities.

REQUIRED READING MATERIALS

Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

COURSE EXPECTATIONS AND GRADING EVALUATIONS

Students will be evaluated based upon on a final exam. Grading will be consistent with College of Law policy. Your grade will be based on a final exam (100% of the final grade). Exam grades are done on a blind basis. All grades are final. There will be no regrading or revisions from me, except to correct any mathematical or clerical errors in computing the final score.

FINAL EXAM FORMAT

The final exam will follow UF's "online open-book" policy. This is an open book online exam. Students can use their textbooks and any other source including the internet, with two exceptions: (1) students may not contact any person for assistance during this exam (contact means asking a person via phone, text, chat, or any other communication means); (2) students may not use any artificial intelligence platforms, software, or services, such as for example ChatGTP or similar kinds of products or services. This exam must be a solo effort by the student without the assistance from any persons or artificial intelligence products. Your professor has chosen the "Fixed (Pre-scheduled Set Date and/or Time)" option. The final exam will be a one-day remote exam that is scheduled on a fixed date, just like an in-class exam (subject to any approved accommodation by exam administrators, such as time conflicts and approved delays).

The final exam may have essay, short answer, and multiple choice questions. Essay questions will be an issue-spotting, analysis, or problem-solving format typically seen in most law school exams. The issues and topics for exam questions will come from the course readings and class discussions. The exam will fairly reflect the work that is done in the course. This means that the best way to prepare for the exam is to do the class readings and to attend class.

Makeup Exam Policy: see <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

ACADEMIC HONESTY

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

ABA OUT-OF-CLASS HOURS REQUIREMENTS

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class. Outside of class including reading the assigned materials and developing your critical analyses of the materials.

CLASS ATTENDANCE POLICY

Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. Students are allowed six (6) absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement will be dropped from the course. The law school’s policy on attendance can be found [here](#).

UF LEVIN COLLEGE OF LAW STANDARD SYLLABUS POLICIES

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

COURSE SCHEDULE OF TOPICS AND ASSIGNMENTS

This syllabus is offered as a guide to the direction of the course. Our pace will depend in part on the level of interest and the level of difficulty of each section and is subject to change.

ONLINE (ZOOM) CLASS SESSIONS

Classes may be held on Zoom as announced. These class sessions will be recorded.

ASSIGNMENTS

IMPORTANT NOTE TO STUDENTS: The syllabus will be continuously updated throughout the course. The average class reading (1 hour 15 minutes of class time) is 22 pages (a total of about 873 pages over 39 class sessions). Please read at least 15 pages ahead of the current assignment for the class session in the event that a particular class moves faster than anticipated.

Class #	Topics, Issues, and Cases	Text pages
1	CHAPTER 1: OVERVIEW OF BUSINESS ENTITIES • Relevance of business entities • Differences between corporations and NBEs ◦ <i>Fraser v. Major League Soccer, LLC</i> • Taxonomy of corporations • Taxonomy of NBEs • Sources of law and internal affairs	1-25
2	CHAPTER 1: OVERVIEW OF BUSINESS ENTITIES • Sources of law and internal affairs ◦ <i>Azure Dolphin, LLC v. Barton</i> ◦ <i>Heaps v. Nuriche, LLC</i> • Problem: Friends Consider a Startup CHAPTER 2: FORMING THE ENTITY • Nature and essential attributes of business entities ◦ <i>Reynolds v. Lyman</i> ◦ <i>State v. Brelvis Consulting LLC</i> ◦ <i>Gould v. City of Stamford</i>	26-52
3	CHAPTER 2: FORMING THE ENTITY • Attorney engagement ◦ <i>In re Murrin Brothers 1885, Ltd.</i> • Forming general partnerships ◦ <i>Martin v. Peyton</i> ◦ <i>Minuit Maid Corp. v. United Foods, Inc.</i>	52-75
4	• Forming general partnerships ◦ <i>Energy Transfer Partners, L.P. v. Enterprise Prod. Partners, L.P.</i> • Forming limited liability entities ◦ <i>McDonough v. McDonough</i> ◦ <i>In re Delaware Sports Complex, LLC</i> ◦ <i>Guy Named Moe, LLC v. Chipotle Mexican Grill of Colorado, LLC</i>	76-101

5	- Partnership and operating agreements <i>In re Nantucket Island Assoc. Ltd. Partnership Unitholders Litig.</i> - Contract interpretation principles - Issues to consider for NBEs	101-124
6	CHAPTER 3: LIABILITY TO THIRD PARTIES - Rule of limited liability in corporations <i>Walkovszky v. Carlton</i> <i>ORT Associates v. IBC Services, Inc.</i> <i>Freeman v. Complex Computing Co., Inc.</i> - Rule of limited liability in NBEs <i>Gateway Potato Sales v. G.B. Investment Co.</i>	125-145
7	- Rule of limited liability in NBEs <i>Alphonse v. Arch Bay Holdings, LLC</i> - Direct liability for one's own conduct <i>Fifth Third Mortgage Co. v. Kaufman</i> <i>Cortez v. Bacco Material Handling Group, Inc.</i> - Veil piercing in NBEs <i>Dailey v. Ayers Land Development, LLC</i>	145-168
8	- Veil piercing in NBEs <i>GreenHunter Energy, Inc. v. Western Ecosystems Technology, Inc.</i> <i>In re Phillips</i> - Successor liability <i>Alsco, Inc. v. Fatty's Bar, LLC</i> - Issues to consider for NBEs - Problem: Entrepreneurs Think about Liability	168-190
9	CHAPTER 4: FINANCE - Introduction to equity financing - Shareholders - Members and partners <i>Kilpatrick v. White Hall on MS River, LLC</i> <i>In re Carlisle Etcetera LLC</i> - Capital accounts - Contributions <i>Fox v. I-10 Ltd.</i>	191-217
10	Profit and loss, and distribution	217-234

	○ <i>Kessler v. Antinora</i> • Improper distribution and liability • Admissions and dissociations of partners and members • Interests as securities	
11	• Interests as securities ○ <i>SEC v. Merchant Capital, LLC</i> • Issues to consider for NBEs • Problem: Entrepreneurs Obtain Financing CHAPTER 5: AGENCY • Theory of agency and its costs • Legal definition of agency and agent ○ <i>Lang v. Lions Club of Cudahy Wisc., Inc.</i>	234-246 247-259
12	CHAPTER 5: AGENCY • Legal definition of agency and agent ○ <i>Lang v. Lions Club of Cudahy Wisc., Inc.</i> ○ <i>Segal v. Genitrix, LLC</i> • Authority, estoppel, and ratification ○ <i>Gay Jensen Farms Co. v. Cargill, Inc.</i> • Principal's liability for agent's contracts and wrongful acts ○ <i>Thomas D. Philipsborn Irrevocable Trust v. Avon Capital, LLC</i> ○ <i>Ira S. Bushey & Sons, Inc. v. U.S.</i> ○ <i>Burlington Industries, Inc. v. Ellerth</i>	259-288
13	• Agency and limited liability • Problem: Entrepreneurs Begin Managing CHAPTER 6: MANAGEMENT STRUCTURE • Three basic forms of management • Centralized management and corporations • Management structures of NBEs ○ <i>Florida R & D Fund Investors, LLC v. Florida BOCA/Deerfield R & D Investors, LLC</i>	288-292 293-316
14	CHAPTER 6: MANAGEMENT STRUCTURE • Voting rights • Insurance and indemnification ○ <i>Sandt v. Energy Maintenance Servs. Group I, LLC</i> ○ <i>Trascent Management Consulting, LLC v. Bouri</i> • Information rights • Issues to consider for NBEs • Problem: Entrepreneurs Think Seriously about Governance	316-340
15	CHAPTER 7: FIDUCIARY DUTY • Introduction to fiduciary duties	341-368

	- Traditional approach to NBEs <i>Meinhard v. Salmon</i> <i>In re USACafes, L.P. Litigation</i> <i>Red River Wings, Inc. v. Hoot, Inc.</i> <i>In re Sky Harbor Hotel Properties, LLC</i>	
16	- Traditional approach to NBEs <i>Acorn v. Moncecchi</i> <i>Wilson v. Gandis</i> <i>McConnell v. Hunt Sports Enterprises</i> - Delaware approach to contracting for fiduciary duty	368-392
17	- Delaware approach to contracting for fiduciary duty <i>Bay Center Apartments Owner, LLC v. Emery Bay PKI, LLC</i> <i>Norton v. K-Sea Transp. Partners L.P.</i> - Obligation of good faith and fair dealing <i>Gerber v. Enterprise Prods. Hldgs., LLC</i> <i>Dieckman v. Regency General Partner LP</i>	393-414
18	- Fiduciary duty to creditors <i>CML V, LLC v. Bax</i> - Actions by partners and members <i>Fritchel v. White</i> <i>Anglo American Security Funds, L.P. v. S.R. Global International Fund, L.P.</i>	414-438
19	- Actions by partners and members <i>Saunders v. Briner</i> <i>Marx v. Morris</i> <i>Woodside Properties, LLC v. MKR Development, LLC</i> - Issues to consider for NBEs - Problem: Entrepreneurs Find a Deal and a Problem CHAPTER 8: TRANSFER OF INTEREST AND DISSOCIATION - Transfers of interest in corporation - Transfers of interest in NBEs <i>SP Investment Fund III, LLC v. Zell</i>	438-468 469-476
20	CHAPTER 8: TRANSFER OF INTEREST AND DISSOCIATION - Transfers of interest in NBEs <i>Bauer v. Blomfield Co./Holden Joint Venture</i> - Transfers of interest in NBEs <i>Northeast Communications of Wisconsin, Inc. v. CenturyTel, Inc.</i> <i>Weddell v. H2O, Inc.</i> <i>Law v. Zemp</i> <i>JPMorgan Chase Bank, N.A. v. McClure</i>	476-499
21	CHAPTER 8: TRANSFER OF INTEREST AND DISSOCIATION	500-522

	• Dissociation ◦ <i>United States v. Sanofi-Aventis U.S. LLC</i> ◦ <i>Gelman v. Buehler</i> ◦ <i>Fredericks Peebles & Morgan LLP v. Assam</i>	
22	• Dissociation ◦ <i>Congel v. Malfitano</i> ◦ <i>IE Test, LLC v. Carroll</i> • Buy-sell agreements	522-546
23	• Issues to consider for NBEs • Problem: Entrepreneurs Learn that Ownership Is Not Permanent CHAPTER 9: DISSOLUTION AND MERGERS • Dissolution ◦ <i>Dysart v. Dragpipe Saloon, LLC</i> • Dissolution ◦ <i>Haley v. Talcott</i> ◦ <i>Styslinger v. Brewster Park, LLC</i>	546-569
24	CHAPTER 9: DISSOLUTION AND MERGERS • Dissolution ◦ <i>In re Carlisle Etcetera LLC</i> ◦ <i>Beaudry v. Harding</i> ◦ <i>Guenther v. Ryerson</i> • Mergers and conversions ◦ <i>Corwin v. KKR Financial Holdings LLC</i> ◦ <i>Allison v. Eriksson</i>	569-599
25	• Issues to consider for NBEs • Problem: Entrepreneurs Go Bigtime, Maybe CHAPTER 10: INTRODUCTION TO CORPORATIONS • Corporations in society ◦ <i>Citizens United v. Federal Election Commission</i> • Major differences between NBEs and corporations • Why corporations	599-604 605-626
26	CHAPTER 10: INTRODUCTION TO CORPORATIONS • Delaware corporation law CHAPTER 11: CORPORATE GOVERNANCE • Board of directors ◦ <i>Cinerama, Inc. v. Technicolor, Inc.</i> ◦ <i>Joy v. North</i> ◦ <i>Shlensky v. Wrigley</i>	626-632 633-642

27	- Board of directors <i>Kamin v. American Express Co.</i> CHAPTER 11: CORPORATE GOVERNANCE - Officers - Shareholders - Corporate governance <i>Bayer v. Beran</i>	642-664
28	CHAPTER 12: DUTY OF CARE - Care, risk-taking and business judgment <i>In re Citigroup Inc. Shareholder Derivative Litigation</i> - Duty to be informed <i>Smith v. Van Gorkom</i> - Exculpation	665-686
29	CHAPTER 12: DUTY OF CARE - Aiding and abetting breach of duties <i>RBC Capital Markets, LLC v. Jervis</i> CHAPTER 13: DUTY OF LOYALTY - Self-dealing and conflict of interest transactions <i>Benihana of Tokyo, Inc. v. Benihana, Inc.</i> <i>Gantler v. Stephens</i>	688-694 695-709
30	CHAPTER 13: DUTY OF LOYALTY - Self-dealing and conflict of interest transactions <i>Broz v. Cellular Information Systems, Inc.</i> - Bad faith <i>In re Walt Disney Co. Derivative Litigation</i> <i>In re Caremark International Inc. Derivative Litigation</i> <i>Stone v. Ritter</i>	709-731
31	- Bad faith <i>In re Citigroup International Inc. Derivative Litigation</i> <i>Marchand v. Barnhill</i> <i>In re Massey Energy Co. Derivative Litigation</i> - Controlling shareholders <i>Sinclair Oil Corp. v. Levien</i>	731-752
32	- Controlling shareholders <i>Weinberger v. UOP Inc.</i> <i>Solomon v. Pathe Communications Corp.</i> <i>Kahn v. Lynch Communications System, Inc.</i> <i>Kahn v. M & F Worldwide Corp.</i>	752-776
33	CHAPTER 14: SHAREHOLDER LITIGATION Information rights	777-793

	○ <i>Seinfeld v. Verizon Communications, Inc.</i> • Direct and derivative suits ○ <i>Tooley v. Donaldson, Lufkin & Jenrette, Inc.</i> • Plaintiff standing in derivative actions ○ <i>In re Fuqua Industries, Inc. Shareholder Litigation</i> ○ <i>Lambrecht v. O'Neal</i>	
34	• Demand and demand futility in derivative actions ○ Do <u>not</u> read <i>Aronson v. Lewis</i> on pages 796-802 (this case will be covered by professor's lecture) ○ Read instead <i>United Food and Commercial Workers Union v. Zuckerberg</i> (provided on Canvass) ○ <i>Cede & Co. v. Technicolor, Inc.</i>	793-795 802-808
35	• Demand and demand futility in derivative actions ○ <i>In re eBay, Inc. Shareholder Litigation</i> ○ <i>Beam ex rel. Martha Stewart Living Omnimedia v. Stewart</i> ○ <i>Kahn v. M & F Worldwide Corp.</i>	808-822
36	CHAPTER 15: ISSUES IN MERGERS & ACQUISITIONS • M&A basics ○ <i>Bove v. Community Hotel Corp. v. Newport, R.I.</i>	823-837
37	• Entrenchment and defenses ○ <i>Unocal Corp. v. Mesa Petroleum Co.</i> • Revlon and its progeny ○ <i>Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.</i> ○ <i>Paramount Communications, Inc. v. Time Inc.</i>	837-858
38	• Revlon and its progeny ○ <i>Paramount Communications, Inc. v. QVC Network</i> ○ <i>Air Products and Chemicals, Inc. v. Airgas, Inc.</i>	858-873
39	OPEN CLASS	
	FINAL EXAM: _____	